

REMARKS

Responsive to the Office Action dated February 10, 2005, Claims 1 and 6 have been amended. Accordingly, Claims 1, 2, 4-7 and 9-12 are currently pending for prosecution with Claims 1 and 6 being independent.

I. Claim Rejections Under 35 U.S.C. § 112

Claims 1-2, 4-7 and 9-12 were rejected under 35 U.S.C. § 112, first paragraph, for failing to comply with the written description requirement. In particular, it was asserted that the specification does not provide support for the composition A-B-C containing about 5 to 40% of the second element B. Applicant has amended independent Claims 1 and 6 to recite that the composition A-B-C contains 5 to 40% by weight of second element B. Accordingly, Applicant respectfully requests reconsideration and withdrawal of this rejection.

II. Claim Rejections Under 35 U.S.C. § 102

Claims 1-2, 4-7 and 9-12 were rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,432,585 to Kawakami. For the following reasons, Applicant respectfully requests reconsideration and withdrawal of this rejection.

Applicant respectfully submits that Kawakami does not anticipate Applicant's invention as claimed because Kawakami fails to teach every element and limitation of the claims at issue. In particular, Kawakami is asserted to teach a tin presence of about 90 atomic % which, it is asserted, encompasses the claimed 5-40% by weight of element B selected from silicon or tin. More specifically, it is asserted that the atomic balance of the composition requires that tin be present at about 90 atomic % which embraces a B element content of 5-40%. Applicant respectfully traverses these calculations. The atomic weights of the constituents are as follows: Cu = 64; Sn = 119; and In = 115. In a composition A:B:C, where B is at its highest weight percentage and C is at its lowest, wherein A is present at 59%, B at 40% and C at 1 %, the

atomic ratio of A:B:C is $59/64 : 40/199 : 1/155 = 0.922 : 0.336 : 0.009 = 0.728 : 0.265 : 0.007$.

Thus, the atomic ratio of B is 26.5% not 10% as asserted in the Office Action. This is well outside Applicant's claimed composition element B being present at 5-40% by weight.

Kawakami therefore clearly does not teach a second element content of 5 to 40% by weight. Because Kawakami does not teach all of the elements of Applicant's Claims 1-2, 4-7, and 9-12, it cannot therefore anticipate the invention as claimed.

III. Conclusion

Applicant respectfully requests withdrawal of the rejections and believes that the claims, as amended, are now in condition for allowance. However, if the Examiner desires, Applicant is ready for a telephone interview to expedite prosecution. As always, the Examiner is free to call the undersigned at 816.460.2516. Should any fees be necessitated by this response, the Commissioner is hereby authorized to deduct any such fees from Deposit Account No. 19-3140.

Respectfully submitted,

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By 

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On May 10, 2005
Date

Connie A. Mills

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